

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

LISA COLE,

Plaintiff,

v.

**AMERICAN LEGION AUXILIARY
DEPARTMENT OF TEXAS;
AMERICAN LEGION
DEPARTMENT OF TEXAS**

§ **CASE NO. 1:18-CV-498**

§

§

§

§ **JURY TRIAL DEMANDED**

§

§

§

§

§

§

§

JOINT STIPULATION OF PARTIAL DISMISSAL WITHOUT PREJUDICE

Plaintiff Lisa Cole (“Cole”) and Defendants American Legion Auxiliary Department of Texas (“American Legion Auxiliary” or “ALA”) and American Legion Department of Texas (“American Legion”) (collectively, the “Parties”), pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) stipulate as follows:

1. American Legion Auxiliary represents that it did not have fifteen (15) or more employees for 20 or more calendar weeks in 2016 and/or 2017.

2. American Legion represents that it did not have fifteen (15) or more employees for 20 or more calendar weeks in 2016 and/or 2017.

3. The Parties stipulate to partial dismissal, without prejudice, of Plaintiff’s claims arising under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*, and Title 2 of the Texas Labor Code, Tex. Lab. Code § 21.001 *et seq.* (“the Civil Rights Statutes”), including Plaintiff’s hostile work environment claims, retaliation claims and/or any other claims under those statutes (the “Dismissed Claims”).

4. The Parties further stipulate that any applicable statutes of limitations as to the Dismissed Claims are tolled until either: (1) the date Plaintiff re-alleges the Dismissed Claims in the lawsuit; or (2) forty-five (45) days before the discovery deadline set in the Court's scheduling order, whichever occurs first.

5. The Parties further stipulate that whether the American Legion Auxiliary and/or the American Legion had enough employees to trigger coverage under the Civil Rights Statutes shall be an appropriate subject of discovery in this case subject to the Federal Rules of Civil Procedure related to disclosures and discovery.

6. By entering this stipulation, the Parties are not waiving any right to fully participate in and/or defend against the claims in the lawsuit according to the Federal Rules of Civil Procedure.

Respectfully submitted,

EVERSHEDS SUTHERLAND (US) LLP

By: /s/ Scott R. McLaughlin

Scott R. McLaughlin

Attorney-in-Charge

Texas State Bar No.: 00791234

Federal ID No.: 18138

Marlene C. Williams

Texas Bar No.: 24001872

Federal ID No.: 22824

John T. Hays

Texas Bar No.: 24101885

Federal ID No.: 3015861

1001 Fannin, Suite 3700

Houston, Texas 77002

(713) 470-6100

(713) 654-1301 – Facsimile

ScottMcLaughlin@eversheds-sutherland.com

MarleneWilliams@eversheds-sutherland.com

JohnHays@eversheds-sutherland.com

**ATTORNEYS FOR DEFENDANT
AMERICAN LEGION AUXILIARY
DEPARTMENT OF TEXAS**

ELLWANGER LAW LLLP

By: /s/ Holt M. Lackey
Holt M. Lackey
Texas State Bar No. 24047763
8310-1 N. Capital of Texas Hwy., Ste. 190
Austin, Texas 78731
(737) 808-2260
(737) 808-2262 – Facsimile
hlackey@equalrights.law

ATTORNEY FOR PLAINTIFF

GORDON & REES

By: /s/ Robert A. Bragalone
Robert A. Bragalone
Texas State Bar No. 02855850
2200 Ross Avenue, Suite 4100 West
Dallas, Texas 75201
(214) 231-4660
(214) 461-4053 – Facsimile
BBragalone@grsm.com

**ATTORNEY FOR DEFENDANT AMERICAN
LEGION DEPARTMENT OF TEXAS**

CERTIFICATE OF SERVICE

This is to certify that on September 13, 2018, a true and correct copy of the foregoing document was served on all parties of record in accordance with the Federal Rules of Civil Procedure.

By: /s/ John T. Hays
John T. Hays